



California Regional Water Quality Control Board

Central Coast Region



Terry Tamminen
*Secretary for
Environmental
Protection*

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

FREQUENTLY ASKED QUESTIONS ABOUT THE NEW CONDITIONAL WAIVER FOR IRRIGATED AGRICULTURE

What is the new conditional waiver?

On July 9, 2004, the Central Coast Regional Water Quality Control Board adopted a new conditional waiver for discharges from irrigated lands, replacing a 1983 waiver that had expired. The California Water Code gives Regional Water Quality Control Boards (Regional Boards) the authority to regulate discharges of waste that could impact the waters of the state of California, through permits called "Waste Discharge Requirements". A discharge is any release of waste, such as fertilizer, pesticide or sediment, to a water of the state. Waters of the state include rivers, streams, lakes, bays and estuaries, and also groundwater. Regional Boards may also waive issuance of Waste Discharge Requirements for specific discharges or categories of discharges if it is in the public interest to do so.

Who does the waiver apply to?

The conditional waiver applies to all irrigated lands used for producing commercial crops, including, but not limited to, land planted to row, vineyard, field and tree crops, commercial nurseries, nursery stock production and greenhouse operations with soil floors that are not currently operating under Waste Discharge Requirements.

Why did the Regional Board adopt a new conditional waiver for irrigated agriculture?

Water quality data from the Central Coast Ambient Monitoring Program (CCAMP) indicate water quality problems in irrigated agricultural areas throughout the region. Many of the region's impaired water bodies (with subsequent Total Maximum Daily Loads determinations) are for waterbodies running through agricultural lands. In addition, many groundwater basins underlying agricultural areas show levels of nitrate that exceed drinking water standards. In 1983, the Regional Board approved waivers for several categories of discharge, including irrigation return water and stormwater discharges. The legislature recently amended California Water Code section 13269, causing all waivers of Waste Discharge Requirements that existed on January 1, 2000, to expire on January 1, 2003. Regional Boards are required to review and either renew existing waivers or adopt new ones. All waivers must be reviewed at least every five years. Because of both new legal requirements and well-documented water quality problems, the Regional Board adopted a new waiver with conditions to ensure that water quality is being protected.

What are farmers expected to do?

All farmers are expected to complete 15 hours of farm water quality education within three years of adoption of the waiver, develop farm water quality management plans that address, at a minimum, irrigation management, nutrient management, pesticide management and erosion control, and begin implementing management practices identified in their plans. Those who have completed the above requirements by January 1, 2005, will qualify for a Tier 1 waiver with reduced reporting requirements.

What do I need to do to enroll in the waiver?

All irrigated operations meeting the above definition may obtain coverage under the waiver by filing a Notice of Intent (NOI) with the Regional Board by January 1, 2005. The Regional Board is developing both a paper and web-based enrollment system. Enrollment forms will be available on-line and in hard copy by December 1, 2004. The NOI is a statement of your intent to meet the conditions of the waiver and obtain coverage. The NOI will include information about the farming operation, including location, contact information for the owner and operator, currently implemented management practices (the "checklist"), a map, a statement of farm water quality plan completion if applicable, certificates of education, and election of monitoring option.

What is the difference between a Tier 1 and a Tier 2 waiver?

Growers who have completed 15 hours of water quality education and have completed a farm plan will only have to enroll and submit an updated management practice checklist midway through the five-year waiver cycle; all others must submit annual reports until they meet the education requirements and complete their farm plan.

If I have completed the education requirement and have a farm plan, will I automatically be placed in Tier 1?

If you state on your Notice of Intent that you have a completed farm water quality plan that meets the requirements of the waiver and you provide proof of education (copies of certificates signed by education providers), you may assume that you are in Tier 1 unless notified otherwise by the Regional Board.

If I am in Tier 2 and complete all of the Tier 1 requirements, what do I need to do?

Once you complete the Tier 1 requirements, submit a revised NOI and you will be placed in Tier 1. You will remain in Tier 1 for the remainder of the five-year waiver cycle.

If I am in Tier 2, do I need to submit an NOI every year?

You do not need to submit a new NOI, but you will need to submit an annual report each year until you complete all Tier 1 requirements. The annual report must include proof of progress toward meeting education requirements and a checklist of management practices currently implemented. An annual report template will be available from the Regional Board in hard copy and on-line.

What if there are not enough education classes available for all growers to meet the 15-hour requirement in three years?

Ensuring continued availability of the University of California Cooperative Extension's Farm Water Quality short courses is a priority, but other courses will also be available to satisfy education requirements, through organizations such as the Central Coast Vineyard Team, Resource Conservation Districts, University of California Cooperative Extension (UCCE), and others. The Regional Board is certifying other courses on an on-going basis. Organizations interested in offering classes for certification should contact the Regional Board. The Regional Board will review education availability and annual progress reports as part of the overall program evaluation and recommend changes to the program as necessary. Growers should make every effort to complete the 15 hours of education and develop farm water quality plans within the three-year period.

What educational opportunities are available for Spanish-speaking growers?

UCCE offers the Farm Water Quality short course in Spanish. The Central Coast Vineyard Team has offered tail-gate meetings in Spanish. In addition, many of the local Resource Conservation Districts and other technical assistance organizations are developing Spanish-language classes and materials to assist growers in meeting waiver requirements.

Is water quality monitoring required?

Yes, California Water Code (Section 13269) requires monitoring to ensure the effectiveness of the waiver program and the adequacy of waiver conditions. Keeping monitoring costs as low as possible while having a monitoring program that can show water quality improvement over time are both important considerations. Growers have the option of performing individual monitoring or participating in a cooperative monitoring program. It is likely that cooperative monitoring will be the least costly alternative, and will satisfy requirements of the law.

What is the Cooperative Monitoring Program?

The Cooperative Monitoring Program is an option allowed under the waiver to satisfy the monitoring requirement. Individual growers may pool resources and conduct group monitoring, much as industrial dischargers in other areas have done to satisfy their monitoring obligations and reduce their overall costs. Under the conditional waiver, a group of twenty-three Central Coast agricultural organizations have agreed to implement the Cooperative Monitoring Program. The program will be supported initially with a combination of settlement and grant funds, and for the first two to three years of the program it is likely that costs to participate will be minimal or none. The agricultural industry is forming an Agricultural Committee to oversee the program.

What do I need to do to participate in the Cooperative Monitoring Program?

In order to participate in the Cooperative Monitoring Program, you must elect the Cooperative Monitoring option when you submit your Notice of Intent (NOI). Because monitoring is required under the waiver, you must select a monitoring option in order for your NOI to be considered complete. You may change your monitoring option at any time by submitting a revised NOI. If you choose individual monitoring, you must begin monitoring October 1, 2005.

If I participate in the Cooperative Monitoring Program, will I be liable if the results show water quality problems?

If ambient monitoring reveals water quality problems, follow-up monitoring will almost always be necessary. The exception is where there is only one possible source of the problem in a watershed. The Regional Board cannot take enforcement action unless it can show which operation(s) are responsible for the problems. The Regional Board has a variety of options once it determines the source(s): assist the facility to come into compliance or implement alternate BMPs; issue a notice of violation or civil liability complaint; or, in the rare case where compliance with waiver conditions will not adequately control the discharge, issue individual waste discharge requirements. The Regional Board's goal is to improve water quality, not to collect penalties, and it will use whatever tools are most appropriate to accomplish that goal.

What will water quality monitoring cost me?

Monitoring costs will depend on the type of monitoring each operation chooses. Individual monitoring costs will depend on the type of discharge, and will generally be highest for operations that discharge

tailwater directly to surface water. Costs could be several thousand dollars per year. The Cooperative Monitoring Program will monitor fixed sites around the region on a regular basis. Costs to participate in the Cooperative Monitoring Program will depend on the size of operation and type of discharge and will be set by a cost allocation subcommittee established by the agricultural industry. Initially, the program will try to utilize settlement and grant funds to defray costs; once the program is fully implemented, costs will likely be substantially lower than individual monitoring.

Will I be held responsible for the quality of groundwater I use for irrigation?

The Regional Board recognizes that groundwater in many areas exceeds water quality standards and will not hold growers responsible for the quality of groundwater that they use. Growers will be expected to not contribute to further deterioration of groundwater quality and should identify practices they are implementing to protect groundwater, such as improving irrigation efficiency, testing for crop needs and residual soil nitrogen before fertilizing, etc.

Will I be expected to monitor groundwater?

We are not including groundwater monitoring requirements at this time. It is recommended that growers know the nitrogen in their irrigation water and incorporate that information into their nutrient management program.

Will I have to contain all my storm water on site?

No, there is not a requirement to retain a fixed amount of stormwater. Each operation will need to identify site-specific practices to prevent sediment, fertilizer and pesticides from moving off site during storm events. The Regional Board also recognizes the difficulty of preventing erosion during large storm events, and recognizes that some sediment runoff and erosion would occur even if the land were in its natural state.

Do I have to allow inspections of my property or make trade secrets public?

The conditional waiver will require you to provide reasonable access to Regional Board staff for inspections. You will receive prior notice of inspections so that you or your representative can participate in the inspection and ensure that any necessary safeguards (for example, measures to prevent spread of plant disease) are in place.

The conditional waiver also includes various reporting requirements. Although you must prepare a Farm Water Quality Plan and you must have the plan available for on-site inspections by Regional Board staff, the waivers only require you to provide copies upon request. Monitoring data must also be available to the public. If you believe that any information requested by the Regional Board would reveal a trade secret, you will have the opportunity to demonstrate that the information contains trade secrets. After you make that determination to the Regional Board's satisfaction, the information will be kept separate from Regional Board's public records and will not be disclosed to members of the public, except as required by law (for example, pursuant to a court order).

Will separate waivers be required for each individual field operation or can a single waiver cover multiple parcels owned or operated by the same grower? How will monitoring be handled for multiple parcels?

Multiple parcels owned or operated by the same grower can be covered through a single waiver. Onsite farm plans may be developed at the parcel level or for the entire farm operation. If the grower elects to conduct individual monitoring, it must be done at the parcel level. Cooperative monitoring will be done at fixed sites located on streams flowing through agricultural areas, with growers contributing to the program based on a cost allocation structure. Costs of participating in the cooperative monitoring program will likely be based on size of operation and type of discharge.

Does the owner or the operator apply for the waiver?

Both the owner and the operator will be held responsible for compliance with waiver conditions and requirements. The Notice of Intent will require information about both owner and operator, and may be filed by either party.

When multiple owners and/or operators are involved in a single farm operation, who is responsible for obtaining the 15 hours of education?

Educational requirements should be obtained by farm owners or managers or other persons in a position to ultimately make decisions about practice implementation, and who have a long-term commitment to the operation.

Do I need to have a waiver if I have no runoff? (For example, if I am on a drip system and have practices in place to prevent erosion?)

If you have no discharge, you will not need to have a waiver; however, many operations have some discharge, either through percolation of wastes such as nutrients or pesticides to groundwater or through movement of nutrients, pesticides or sediments offsite during storm events. Although drip systems are generally less likely to impact water quality than tailwater discharges, there is still a potential impact to groundwater if the system is not properly operated or maintained. The conditional waivers will provide coverage for irrigated operations that may discharge some waste in the course of their operation.

What if a grower farms in more than one region?

Growers must comply with regulation requirements of the Regional Board where the farm is located. However, all Regional Boards will rely on implementation of best management practices to protect water quality. It is likely that attending farm water quality education classes, developing a farm plan and implementing management practices to protect water quality will be core requirements in many areas.

How do I get more information?

Additional information is available on the Regional Board's website, <http://www.swrcb.ca.gov/rwqcb3/AGWaivers/Index.htm>, by contacting [Alison Jones](#) at (805) 542-4646 or by sending an email to ajones@rb3.swrcb.ca.gov. You may also sign up for email updates on the Regional Board's website (www.swrcb.ca.gov/rwqcb3) by clicking on "Electronic Mailing List Subscription" on the right side of the page.